

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:10-HC-2101-BO

GRADY EWING MAYS,

Petitioner,

v.

TRACY W. JOHNS,

Respondent.

**ORDER**

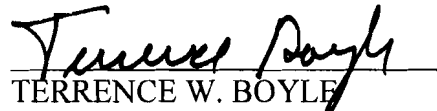
On May 28, 2010, Grady Ewing Mays (“Mays” or “petitioner”) filed a petition for writ of habeas corpus [D.E. 1] under 28 U.S. C. § 2241 (“§ 2241”), challenging his present confinement under 18 U.S.C. § 4248 (“§ 4248 ”). On December 13, 2010, Tracy W. Johns (“Johns” or “respondent”) filed a motion to dismiss [D.E. 16].

The United States Court of Appeals for the Fourth Circuit’s recent decision in Timms v. Johns, No. 10-6496, 2010 WL 4925395 (4th. Cir. Dec. 6, 2010), held that a person against whom § 4248 proceedings have been initiated must exhaust all remedies within the § 4248 proceedings prior to seeking a writ of habeas corpus under § 2241. Because § 4248 proceedings against petitioner in this case remain pending in this court (See United States v. Mays, No. 5:07-HC-2123-BO), petitioner has not exhausted all remedies within the § 4248 proceedings. On January 18, 2011, Mays filed a response [D.E. 20] to respondent’s motion to dismiss in which Mays states that he does not object to the § 2241 action being dismissed without prejudice.

---

Accordingly, the motion to dismiss [D.E. 16] is hereby ALLOWED, and the petition for writ of habeas corpus [D.E. 1] is hereby DISMISSED WITHOUT PREJUDICE. The Clerk is DIRECTED to CLOSE the case.

SO ORDERED. This 26 day of January 2011.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE